

1 NOSSAMAN LLP  
2 PAUL S. WEILAND (SBN 237058)  
pweiland@nossaman.com  
3 BENJAMIN Z. RUBIN (SBN 249630)  
brubin@nossaman.com  
4 ELIZABETH KLEBANER (SBN 261735)  
lklebaner@nossaman.com  
5 18101 Von Karman Avenue, Suite 1800  
Irvine, CA 92612  
6 Telephone: 949.833.7800  
Facsimile: 949.833.7878  
7 KATHERINE L. FELTON (WA SBN 30382)  
8 *Admitted Pro Hac Vice*  
kfelton@nossaman.com  
9 BRIAN FERRASCI-O'MALLEY (WA SBN 46721)  
10 *Admitted Pro Hac Vice*  
bferrasciomalley@nossaman.com  
11 719 Second Avenue, Suite 1200  
Seattle, WA 98104  
12 Telephone: 206.395.7630  
Facsimile: 206.257.0780  
13  
14 Attorneys for Defendant  
COUNTY OF SAN LUIS OBISPO  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

SAN LUIS OBISPO COASTKEEPER,  
LOS PADRES FORESTWATCH,  
CALIFORNIA COASTKEEPER  
ALLIANCE, and THE ECOLOGICAL  
RIGHTS FOUNDATION,

Plaintiffs,

vs.

COUNTY OF SAN LUIS OBISPO,

Defendant.

Case No: 2:24-cv-06854 SPG (ASx)

**DISCOVERY MATTER**

**STIPULATED MOTION TO  
AMEND COUNTY OF SAN LUIS  
OBISPO'S RESPONSES TO  
PLAINTIFFS' SECOND  
REQUESTS FOR ADMISSION  
NOS. 6, 18, AND 21**

Hearing: June 12, 2025 at 10:00 a.m.

Location: 255 E. Temple St., Los Angeles, CA, Courtroom 540

Judge: Hon. Mag. Alka Sagar

Discovery cutoff: June 13, 2025

Case No. 2:24-cv-06854 SPG (ASx)

STIPULATED MOTION TO AMEND COUNTY RESPONSES TO PLAINTIFFS' SECOND  
REQUESTS FOR ADMISSION NOS. 6, 18, AND 21

1 *Counsel for Plaintiffs:*

2 Christopher Sproul (Cal. Bar No. 126398)

3 Brian Orion (Cal. Bar No. 239460)

4 Marla Fox (Cal. Bar No. 349813)

5 Environmental Advocates

6 5135 Anza Street

7 San Francisco, California 94121

8 Tel: (415) 533-3376

9 Fax: (415) 358-5695

10 Email: [csproul@enviroadvocates.com](mailto:csproul@enviroadvocates.com)

11 Email: [borion@enviroadvocates.com](mailto:borion@enviroadvocates.com)

12 Email: [mfox@enviroadvocates.com](mailto:mfox@enviroadvocates.com)

13 Drevet Hunt (Cal. Bar No. 240487)

14 Lauren Chase Marshall (Cal. Bar No. 324162)

15 California Coastkeeper Alliance

16 1100 11st Street, 3<sup>rd</sup> Floor

17 Sacramento, California 95814

18 Tel: (415) 606-0864

19 Email: [dhunt@cacoastkeeper.org](mailto:dhunt@cacoastkeeper.org)

20 Email: [lauren@cacoastkeeper.org](mailto:lauren@cacoastkeeper.org)

21 Jesse Colorado Swanhuyer (Cal. Bar No. 282186)

22 Sycamore Law Inc.

23 1004 O'Reilly Avenue

24 San Francisco, California 94129

25 Tel: (805) 689-1469

26 Email: [jesse@sycamore.law](mailto:jesse@sycamore.law)

27

28

1 TO THE HONORABLE COURT, ALL PARTIES, AND ALL  
2 ATTORNEYS OF RECORD, PLEASE TAKE NOTICE THAT on June 12, 2025,  
3 at 10:00 a.m. or as soon thereafter as counsel may be heard in Courtroom 540 of  
4 the Roybal Federal Building and United States Courthouse, located at 255 E.  
5 Temple Street, Los Angeles, California, 90012, before the Honorable Magistrate  
6 Judge Alka Sagar, Defendant County of San Luis Obispo will and hereby does  
7 move the Court for an order to amend the County's responses to Plaintiffs' Second  
8 Set of Requests for Admission Nos. 6, 18, and 21 to correct and clarify the  
9 County's responses as set forth in the Motion.

10 Good cause exists to grant this Motion. The amendment will promote the  
11 presentation of the merits of the action and there is no prejudice to Plaintiffs who  
12 stipulate to, and do not oppose, this Motion. This Motion is based upon this Notice  
13 of Motion, the Stipulation of the parties pursuant to Local Rule 37-2, and upon  
14 such other matters as may be presented to the Court at the time of this hearing or  
15 otherwise.

16 This Motion is made following a conference of counsel pursuant to Local  
17 Rule 37-1, which first occurred on April 2, 2025, and was thereafter followed by  
18 additional communications between counsel. Plaintiffs stipulate to this Motion.

20 | Date: May 14, 2025

NOSSAMAN LLP  
PAUL S. WEILAND  
BENJAMIN Z. RUBIN  
ELIZABETH KLEBANER  
KATHERINE L. FELTON  
BRIAN FERRASCI-O'MALLEY

By: /s/ Katherine L. Felton

Katherine L. Felton

*Attorneys for Defendant  
COUNTY OF SAN LUIS OBISPO*

1  
2 **I. ISSUE SUBMITTED FOR RESOLUTION**

3 **A. Factual and Procedural Background**

4 Plaintiffs commenced this lawsuit against the County of San Luis Obispo  
5 (the “County”) on August 13, 2024, asserting claims under the Endangered Species  
6 Act, 16 U.S.C. §§ 1531, *et seq.*, the California Fish and Game Code §§ 5901 and  
7 5937, the California Public Trust Doctrine, and the California Constitution, Article  
8 X, Section 2, arising from the County’s operation and maintenance of Lopez Dam,  
9 located in Arroyo Grande Creek in San Luis Obispo County. Dkt. 1. On January  
10 14, 2025, the Court entered the Schedule of Pre-Trial and Trial Dates (“Scheduling  
11 Order”) setting June 13, 2025, as the deadline for the Parties to complete fact  
12 discovery. Dkt. 79-1. Trial is scheduled for March 10, 2026. *Id.*

13 The Parties have been engaged in fact discovery, including the exchange of  
14 all forms of written discovery – interrogatories, requests for production and  
15 requests for admission – and this process is ongoing. Declaration of Katherine  
16 Felton (“Felton Decl.”) at ¶ 3. This Motion concerns the County’s responses to  
17 three of Plaintiffs’ requests for admission (Nos. 6, 18, and 21) contained in  
18 Plaintiffs’ Second Set of Requests for Admissions (the “Second RFAs”). The  
19 County produced its responses to Plaintiffs’ Second RFAs, which contained 277  
20 requests, on March 5, 2025. Felton Decl., ¶ 4. In a letter dated March 25, 2025,  
21 Plaintiffs requested to meet and confer to discuss the County’s responses, and the  
22 parties subsequently met and conferred on April 2, 2025. Felton Decl., ¶ 5. As a  
23 result of the meet and confer, the County agreed to review its responses to  
24 determine if amendment was necessary and to advise the Plaintiffs of its  
25 determination. Felton Decl., ¶ 5.

26 On April 30, 2025, the County advised Plaintiffs that the County would seek  
27 to amend its responses to RFAs Nos. 6, 18, and 21 to clarify the responses, and the  
28

1 County requested that Plaintiffs stipulate to a motion. Felton Decl., ¶ 6. On May  
2 9, 2025, Plaintiffs requested to review the County's proposed amendments which  
3 the County provided on May 12, 2025, in redline as follows:

4 **REQUEST FOR ADMISSION NO. 6:**

5 *Please admit that YOU have authority and control over the maintenance of  
6 the ponds at the base of LOPEZ DAM, and that YOU maintain the ponds located at  
7 the base of LOPEZ DAM.*

8 **RESPONSE TO REQUEST FOR ADMISSION NO. 6:**

9 *The County hereby incorporates by reference General Objections 3–6 to this  
10 Request. The County further objects that this Request is vague and ambiguous in  
11 referring to “ponds” in the plural without providing an adequate description of the  
12 specific locations and/or other information such that each pond referenced in the  
13 Request is clearly identified.*

14 *Subject to the County's Preliminary Statement, General Objections, and the  
15 specific objections identified above, the County answers as follows: The County  
16 admits that it has authority and control over the maintenance of ~~the~~ the frog ponds  
17 that are located at or near the base of Lopez Dam and that it does maintain these  
18 frog ponds. ~~The County denies it has authority or control over maintenance, or~~  
19 ~~that it maintains, any other ponds.~~*

20 \* \* \* \*

21 **REQUEST FOR ADMISSION NO. 18:**

22 *Please admit that YOU own, operate, and maintain the double arch culvert  
23 at Biddle Regional Park.*

24 **RESPONSE TO REQUEST FOR ADMISSION NO. 18:**

25 *The County hereby incorporates by reference General Objections 3–6 to this  
26 Request.*

27

28

1        *Subject to the County's Preliminary Statement and General Objections*  
2        *identified above, the County answers as follows: The County admits it owns,*  
3        *operates and maintains the double arch culvert at Biddle Regional Park, subject to*  
4        *any limitations stemming from exercise of applicable federal and state laws or*  
5        *regulatory authorities. The County denies it maintains the double arch culvert at*  
6        *Biddle Regional Park.*

\* \* \* \*

**REQUEST FOR ADMISSION NO. 21:**

9       Please admit that *YOU* owned, operated, and maintained the fish passage  
10      impediment identified as PAD\_ID736895 (Passage ID 13262).

## **RESPONSE TO REQUEST FOR ADMISSION NO. 21:**

12        *The County hereby incorporates by reference General Objections 3–6 to this*  
13        *Request. The County further objects to this Request as an impermissible*  
14        *compound request.*

15        *Subject to the County's Preliminary Statement and General Objections*  
16        *identified above, the County answers as follows: The County denies it operated*  
17        *and maintained the concrete weir structure that was in Arroyo Grande Creek Tar*  
18        *Springs Creek and identified as fish impediment PAD\_ID736895 (Passage ID*  
19        *13262). After reasonable inquiry, the County lacks information sufficient to*  
20        *determine whether it owned the structure PAD\_ID736895 (Passage ID 13262),*  
21        *and therefore denies that it did. The County admits it removed the structure when*  
22        *the bridge was replaced.*

23 Felton Decl., ¶ 7. On May 12, 2025, Plaintiffs agreed to stipulate to the County's  
24 motion to amend these responses as set forth herein. Felton Decl., ¶ 8. The issue  
25 presented is whether the Court should enter an Order granting the Motion to allow  
26 amendment where the need has been timely raised, will promote the presentation  
27 of the case on the merits, and where Plaintiffs stipulate to amendment.

1                   **B. Legal Standard for Amending Requests for Admission**

2                   Federal Rule of Civil Procedure 36(b) provides that “[a] matter admitted  
3 under this rule is conclusively established unless the court, on motion, permits the  
4 admission to be withdrawn or amended. Subject to Rule 16(e), the court may  
5 permit withdrawal or amendment if it would promote the presentation of the merits  
6 of the action and if the court is not persuaded that it would prejudice the requesting  
7 party in maintaining or defending the action on the merits.” Fed. R. Civ. P. 36.  
8 The Court considers both elements (promoting presentation of the merits of the  
9 case and prejudice) in determining whether to exercise its discretion to grant a  
10 motion to amend responses to requests for admission. *Conlon v. United States*,  
11 474 F.3d 616, 621 (9th Cir. 2007); *Jimena v. UBS AG Bank*, No. CV-F-07-367  
12 OWW/SKO, 2010 WL 4624863 at \*5 (E.D. Cal. Nov. 3, 2010).

13                   **C. The Court Should Allow Amendment In This Case**

14                   Amendment to the County’s responses to RFA Nos. 6, 18, and 21 is  
15 appropriate because it is raised timely, will promote the presentation of the case on  
16 the merits, and presents no issue of prejudice to Plaintiffs at trial as the Plaintiffs  
17 have stipulated to the County’s Motion. Fed. R. Civ. P. 36(b). Accordingly, the  
18 Court should exercise its discretion to allow amendment in this case.

19                   ***1. The Need for Amendment is Timely Raised***

20                   As set forth above, Plaintiffs’ Second RFAs contained 277 separately  
21 numbered requests. Felton Decl., ¶ 4. The County produced its responses and  
22 objections to Plaintiffs on March 5, 2025. Felton Decl., ¶ 5. Plaintiffs requested a  
23 meet and confer regarding the County’s responses on March 25, 2025. Felton  
24 Decl., ¶ 5. The Parties conducted the meet and confer on April 2, 2025, and the  
25 County agreed to thereafter review its responses. Felton Decl., ¶ 5. On April 30,  
26 2025, the County advised Plaintiffs that its responses to requests for admission  
27 Nos. 6, 18, and 21 require amendment and the County requested that Plaintiffs  
28

1 stipulate to allow the amendment. Felton Decl., ¶ 6. On May 9, 2025, Plaintiffs  
2 requested to review the proposed amendments. Felton Decl., ¶ 7. On May 12,  
3 2025, the County provided Plaintiffs with the redline of the proposed amendments  
4 as set forth above. Felton Decl., ¶ 7. On May 12, 2025, Plaintiffs confirmed  
5 agreement to stipulate to a motion by the County to amend the responses. Felton  
6 Decl., ¶ 8. The County has acted promptly with respect to this matter and worked  
7 to resolve the dispute with Plaintiffs by seeking agreement to allow amendment.

8 ***2. The Corrections Promote Presentation of the Case on the  
9 Merits***

10 As set forth above, the County identified three responses that require  
11 correction and clarification to accurately respond to the factual matters addressed  
12 in the request. Specifically, with respect to the County’s response to RFA No. 6,  
13 the County’s amendment is necessary to identify that there is more than one frog  
14 pond that the County maintains, and to clarify the locations of these frog ponds are  
15 at or near the base of the Lopez Dam.

16 In response to RFA No. 18, the County’s amendment is necessary to correct  
17 an inconsistency within the response. Currently, the last sentence of the response  
18 contradicts in part the preceding portions of the response as it relates to the  
19 maintenance of the Biddle Park double arch culvert.

20 Finally, in response to RFA No. 21, the County’s amendment is necessary to  
21 correct the location of the potential fish impediment identified as PAD\_ID 736895.  
22 The correct location of PAD\_ID 736895 is in Tar Springs Creek, a tributary to  
23 Arroyo Grande Creek. The current response erroneously identifies the location of  
24 PAD\_ID 736895 as Arroyo Grande Creek. Accordingly, the amendment is  
25 necessary to correctly identify the location.

26 These amendments promote the presentation of the case on the merits by  
27 ensuring that the responses accurately reflect factual information relating the  
28

1 subject matter of the requests.

2 **3. *No Prejudice Will Result from Allowing Amendment***

3 Plaintiffs stipulate to this Motion and have reviewed the proposed  
4 amendments prior to filing. There is no dispute between the Parties as to whether  
5 the Court should allow amendment or whether there will be prejudice to Plaintiffs  
6 at trial resulting from allowing the amendment. Accordingly, this element of the  
7 test is not at issue and does not preclude amendment.

8 **II. CONCLUSION**

9 For the foregoing reasons, the County respectfully requests the Court grant  
10 this Motion and enter an Order allowing for amendment of the County's responses  
11 to RFAs Nos. 6, 18, and 21.

12 Date: May 14, 2025

NOSSAMAN LLP  
PAUL S. WEILAND  
BENJAMIN Z. RUBIN  
ELIZABETH KLEBANER  
KATHERINE L. FELTON  
BRIAN FERRASCI-O'MALLEY

16 By: /s/ Katherine L. Felton

17 Katherine L. Felton

18 *Attorneys for Defendant*  
19 *COUNTY OF SAN LUIS OBISPO*

20 ENVIRONMENTAL ADVOCATES  
21 CHRISTOPHER SPROUL  
22 BRIAN ORION  
23 MARLA FOX

24 By: /s/ Christopher Sproul

25 Christopher Sproul

26 *Attorneys for Plaintiffs*

## **Certification of Multiple Signatures**

Pursuant to Local Rule 5-4.3.4(a)(2)(i), I attest that all other signatories listed, and on whose behalf the filing is submitted, concur in the filing's content and have authorized the filing.

By: /s/ Katherine L. Felton  
Katherine L. Felton